

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Eighteenth Region

OVERNITE TRANSPORTATION COMPANY¹

Employer

and

WILLIAM ALAN MOORHOUS

Petitioner

and

TEAMSTERS LOCAL NO. 120²

Union

Case 18-RD-2401

DECISION AND DIRECTION OF ELECTION

Petitioner seeks to decertify the Union as the collective-bargaining representative of certain employees of the Employer. The parties agree on the unit description, as set forth below. However, both the Employer and Union declined to stipulate to the terms of an election, as each contends, for different reasons, that the processing of this petition should be delayed.³ However, I conclude that it is appropriate to order an election in this matter.

¹ The Employer's name appears as amended at the hearing.

² The Union's name appears as amended at the hearing.

³ By letter dated July 19, 2002, the Union requested that I delay processing this petition because of pending unfair labor practice charges against the Employer, which the Union contends are unresolved and impact the unit herein. By motion dated August 14, 2002, the Employer sought to postpone processing of this petition pending further developments in certain unfair labor practice charges filed against the Union that the Employer contends are unresolved and impact the unit herein. By letter to the Union dated July 22, 2002, and by Order dated August 14, 2002, I denied the

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. Upon the entire record in this proceeding, I find:

1. The hearing officer's rulings are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.⁴
3. The labor organization involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time drivers, dockmen, and mechanics employed by the Employer at its Blaine, Minnesota facility; excluding office clerical employees, and guards and supervisors as defined in the Act.

Union's and Employer's requests, respectively. In its brief filed after the hearing in this matter, the Employer included a motion that I reconsider my August 14 denial. By Order dated August 21, 2002, I denied the Employer's motion for reconsideration. At the hearing in this matter both the Union and Employer stated that except for the issues raised in their July 19 and August 14 submissions, no other issues preclude holding an election. As the July 19 request from the Union and August 14 motion by the Employer are not part of the record herein, it is unnecessary for me to further consider them.

⁴ The Employer, Overnite Transportation Company, is a Virginia corporation with places of business in various states, including its terminal at Blaine, Minnesota, where it is engaged in interstate transportation of freight. During the past calendar year, a representative period, the Employer derived gross revenues in excess of \$50,000 for transportation of freight from the State of Minnesota directly to points outside the State of Minnesota.

DIRECTION OF ELECTION⁵

An election by secret ballot will be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the Notice of Election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date below, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period, and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are persons who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.⁶

⁵ Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 – 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by **September 5, 2002**.

⁶ To ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Co., 394 U. S. 759 (1969). Accordingly, it is directed that two copies of an election eligibility list containing the full names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within seven (7) days of the date of this Decision and Direction of Election. North Macon Health Care Facility, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. In order to be timely filed, this list must be received in the Minneapolis Regional Office, Suite 790 Towle Building, 330 Second Avenue South, Minneapolis, MN 55401-2221, on or before close of business on **August 29, 2002**. No extension of time to file this list may be granted by the Regional Director except in extraordinary

Those eligible shall vote whether or not they desire to be represented for collective-bargaining purposes by Local 120, General Drivers a/w the International Brotherhood of Teamsters.

Signed at Minneapolis, Minnesota, this 22nd day of August, 2002.

/s/ Ronald M. Sharp

Ronald M. Sharp, Regional Director
Eighteenth Region
National Labor Relations Board

Index # 393-6061-3350

circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.